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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/562,613	08/25/2006	Cheryl M. Forster	00772-21216.PROV. PCT.US	3676
20551 7590 05/04/2007 THORPE NORTH & WESTERN, LLP. 8180 SOUTH 700 EAST, SUITE 200 SANDY, UT 84070			EXAMINER CANFIELD, ROBERT	
			ART UNIT 3635	PAPER NUMBER
			MAIL DATE 05/04/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/562,613

Applicant(s)

FORSTER ET AL.

Examiner

Robert J. Canfield

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 December 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 December 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>05/30/06</u> . | 6) <input type="checkbox"/> Other: _____ |

1. This is a first Office action on the merits for application serial number 10/592,613 filed 12/22/05. Claims 1-20 are pending.

2. The drawings filed 12/22/05 are accepted.

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

4. Claims 17-19 are rejected under 35 U.S.C. 102(e) as being anticipated by US 2002/0189183 to Ricciardelli.

In [0039] Ricciardelli provides molding polymer interlocking floor tiles having and transferring an image of a wood grain pattern (50) thereon. Paragraph [0041] discusses applying a protective polyurethane coating (52) on top of the pattern.

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5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over US 2002/0189183 to Ricciardelli.

Ricciardelli provides all of the steps of the claim except specifying the polyurethane coating and its thickness.

The particular polyurethane chosen and its thickness are viewed as choices of design which would have been obvious at the time of the invention to one having ordinary skill in the art for the inherent material properties and because Ricciardelli states in paragraph [0042] that the particular compositions and thicknesses are not critical. One of ordinary skill in the art would have recognized that the polyurethane composition and thickness could have been varied. Further, applicant has failed to provide any problem in the art solved by the choice of the particular composition and/or thickness.

7. Claims 1-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 4,930,286 to Kotler in view of U.S. Patent 5,992,106 to Carling et al. and U.S. Patent Publication 2002/0189183 to Ricciardelli.

Kotler provides elongated rectangular floor planks having top surface 11, perimeter wall 12, upright support walls 13 and interlocking structure comprised

of loops 20 and pins 21. The tiles are capable of being interlocked such that one tile straddles two adjacent tiles.

Kotler fails to provide that the upright support walls have a height common to the height of the perimeter wall and that the top surface 11 is imprinted with a wood grain pattern and polyurethane coating.

Carling teaches that at the time of the invention it was known to provide the support walls with a height common to the height of the perimeter wall for increased load support within the intermediate area of the tile.

It would have been obvious at the time of the invention that the support walls of Kotler could have made to height common to that of the perimeter wall as taught by Carling for better intermediate load support.

Ricciardelli provides molding polymer interlocking floor tiles having and transferring an image of a wood grain pattern (50) thereon. Paragraph [0041] discusses applying a protective polyurethane coating (52) on top of the pattern. Ricciardelli provides all of the steps of the claim except specifying the polyurethane coating and its thickness.

The particular polyurethane chosen and its thickness are viewed as choices of design which would have been obvious at the time of the invention to one having ordinary skill in the art for the inherent material properties and because Ricciardelli states in paragraph [0042] that the particular compositions and thicknesses are not critical and that the coating can be roller-applied (not required to meet the article claim). One of ordinary skill in the art would have

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recognized that the polyurethane composition and thickness could have been varied. Further, applicant has failed to provide any problem in the art solved by the choice of the particular composition and/or thickness.

It would have been obvious at the time of the invention to one having ordinary skill in the art that the top surface (11) of Kotler could have been provided with a wood grain image as taught by Ricciardelli. It would have been obvious so as to simulate natural wood flooring.

The particular dimensions of the rectangular tile are viewed as choice of design which would have been obvious at the time of the invention to one having ordinary skill in the art. One of ordinary skill in the art would have readily recognized that the rectangular tiles of Kotler could have dimensioned as desired to achieve a desired aesthetic look. It is well known that floor tiles can be made in a variety of length to width ratios depending on the desired look.

It is noted that claims 1 and 10 do not even really require the secondary reference of Ricciardelli as the claims fail to require the any pattern imprinted thereon and one could reasonable take the position that the tiles of Kotler resemble a wood floorboard.

8. The IDS filed 05/30/06 has been considered. An initialed copy of the 1449 form is attached.

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9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert J. Canfield whose telephone number is 571-272-6840. The examiner can normally be reached on M-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Friedman Carl can be reached on 571-272-6842. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Robert J Canfield
Primary Examiner
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05/02/07